



# MISSOURI DEPARTMENT OF MENTAL HEALTH

Keith Schafer, Department Director



DEPARTMENT  
OPERATING  
REGULATION  
NUMBER

DOR

8.040

|  |                                 |                                   |                       |                       |
|--|---------------------------------|-----------------------------------|-----------------------|-----------------------|
| CHAPTER<br>Regulatory Compliance   | SUBCHAPTER<br>HIPAA Regulations | EFFECTIVE DATE<br>7/1/09          | NUMBER OF PAGES<br>3  | PAGE NUMBER<br>1 of 3 |
| SUBJECT<br>Access to Consumer Protected Health Information (PHI) by<br>Department of Mental Health Staff, Volunteers or Students |                                 | AUTHORITY<br>Section 630.050 RSMo |                       | History<br>See Below  |
| PERSON RESPONSIBLE<br>General Counsel  |                                 |                                   | SUNSET DATE<br>7/1/12 |                       |

**PURPOSE:** It is the policy of the Missouri Department of Mental Health to protect the privacy of individually identifiable health information in compliance with federal law. To assist in assuring that protection, it is the practice of MO DMH to assure that its workforce recognize the importance of such confidentiality provisions, and affirmatively acknowledge those guidelines. See 45 CFR Sections 160 and 164, et seq.

**APPLICATION:** The Department of Mental Health, its facilities and workforce.

**(1) CONTENTS:**

- (A) Definitions
- (B) Staff Access
- (C) Training on Access
- (D) Required Confidentiality Agreement
- (E) Visitors
- (F) Local Policies
- (G) Review Process
- (H) Sanctions

**(2) DEFINITIONS:**

(A) Protected Health Information (PHI): Individually identifiable health Information that is transmitted or maintained in any form or medium, by a covered entity, health plan or clearinghouse as defined under the Health Insurance Portability and Accountability Act (HIPAA), 45 CFR Part 160 and 164.

(B) Individually Identifiable Health Information: Any information, including demographic information, collected from an individual that –

1. is created or received by a healthcare provider, health plan, employer, or healthcare clearinghouse; and

2. related to the past, present, or future physical or mental health or condition of an individual; the provision of healthcare to an individual; or the past, present, or future payment for the provision of healthcare to an individual, and

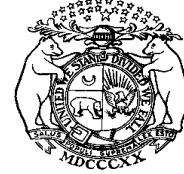
a. identifies the individual, or

b. there is reasonable basis to believe that the information can be used to identify the individual.

(C) Workforce: Includes employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a covered entity, is under the direct control of such entity, whether or not they are paid by the covered entity (facility or Department). This shall include client workers employed by the Department of Mental Health or its facilities. 45 CFR Section 160.103.



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## (3) STAFF ACCESS:

(A) Department of Mental Health workforce members shall be granted access to PHI, whether written, electronic or verbal in nature, in accordance with state and federal law (HIPAA, P.L. 104-191); (42 CFR Part 2 et seq.); (Sections 630.140 and 630.167, RSMo), and other relevant Department Operating Regulations. Such access shall be limited to the minimum necessary amount of protected health information to accomplish the purpose of any requested use or disclosure of PHI, e.g. to the amount of PHI the employee or workforce member needs to know in order to accomplish their job or task. In addition, communications between workforce members which involve PHI shall also be considered confidential and should not take place in public areas. If it is absolutely necessary to conduct such conversations in public areas, reasonable steps shall be taken to assure the confidentiality of the PHI.

(B) Consumer PHI shall not be removed from a facility or Central Office without specific authorization from the Privacy Officer or designee, or the appropriate medical records personnel. Each facility shall establish a procedure for how workforce members are to physically access PHI in medical records (i.e. how to sign records in and out and under what conditions, etc.).

(C) If PHI in any form is lost or stolen, the Privacy Officer or designee shall be notified as soon as practical, but no later than two (2) business days after the loss is discovered, in order for the Privacy Officer or designee to initiate the mitigation process.

(4) TRAINING: The Department of Mental Health workforce members shall be informed of their obligations with respect to PHI in accordance with DMH by mandatory participation in HIPAA Privacy Training as set forth in DOR 8.090.

(5) REQUIRED CONFIDENTIALITY AGREEMENT: The Department of Mental Health workforce members that receive or maintain PHI shall be required to agree to the protection of such PHI in accordance with the state and federal laws as set forth above. These workforce members shall sign a confidentiality statement. The model statement is attached to this DOR. A copy of the signed confidentiality statement shall be maintained in the personnel file of DMH staff, or in the director of volunteer services' office if not a DMH staff.

(6) VISITORS: Visitors to Central Office and all facilities are not required to sign the confidentiality agreement. However, a copy of the confidentiality agreement shall be located next to the Visitor Sign-in materials at each facility to be available for review by each visitor. Visitors should note the process for visiting facilities as set forth in DOR 8.320.

(7) LOCAL POLICIES: There shall be no facility policies pertaining to this topic. The Department Operating Regulation shall control.



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(8) REVIEW PROCESS: The Central Office Privacy Officer shall collect information from the facility Privacy Officers during the month of April each year to monitor compliance with this DOR.

(9) SANCTIONS: Failure of workforce members to comply or assure compliance with the DOR may result in disciplinary action, including dismissal.

*HISTORY: Original DOR effective January 1, 2003. Final DOR effective June 1, 2003. Amendment effective July 1, 2006. On July 1, 2009, the sunset date was extended to July 1, 2012.*

## CONFIDENTIALITY AGREEMENT

I recognize and acknowledge that the services that the Missouri Department of Mental Health and this facility performs for its consumers are confidential. To enable the Missouri Department of Mental Health and this facility to perform those services, consumers furnish confidential protected health information (PHI).

I, by reason of my work or volunteer activities or by my presence at this facility, may come into possession of protected health information concerning the services performed by this facility for its consumers, even though I do not take any direct part in or furnish the services performed for those consumers. I agree that I will not at any time during or after my access to these medical records containing PHI, disclose (which could mean giving someone records, or talking with someone) any such provided services or PHI to any person or entity whatsoever, or other privileged information prepared that is not needed for consumer treatment, payment, or health care operations for this facility. I understand that the use or disclosure of such information may give rise to injury to the consumer or to this facility, and may violate state and federal confidentiality provisions.

I recognize and acknowledge that although the information contained in the medical record (PHI) can only be disclosed by the consumer or his/her legal guardian, that the medical record (PHI) is the property of this facility; that no original medical records or portions of a medical record, shall be removed from this facility for any reason, and that I will keep no negatives, use no microfilm, or keep or sell any photocopies or computer disks to any second parties.

I acknowledge that in receiving, storing, processing or otherwise dealing with any consumer medical records (PHI) from this facility, I am fully bound by HIPAA federal regulations (45 CFR Sections 160 and 164); by 42 CFR Part 2 et seq., "Confidentiality of Alcohol and Drug Abuse Patient Records"; and by Missouri state law and any other applicable federal law.

I, \_\_\_\_\_, (PRINT NAME), employed or working or volunteering as a

\_\_\_\_\_(PRINT POSITION) have read all of the above sections of this Agreement, and I fully understand and shall comply with them. I understand that failure to comply may lead to sanctions.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
DIRECTOR, HEALTH INFORMATION  
MANAGEMENT SERVICE/CLIENT  
INFORMATION CENTER

\_\_\_\_\_  
DATE

Rev. 10/02